



Iowa General Assembly

2008 Committee Briefings

Legislative Services Agency – Legal Services Division

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SPECIFIC CRIMES SUBCOMMITTEE OF THE CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

Meeting Dates: [July 15, 2008](#)

Purpose. *This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <http://www.legis.state.ia.us/>, or from the agency connected with the meeting or topic described.*

SPECIFIC CRIMES SUBCOMMITTEE OF THE CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

July 15, 2008

Chairperson: Representative Rick Olson

Overview. The Specific Crimes Subcommittee of the Criminal Code Reorganization Study Committee is charged with identifying potential gaps in the Criminal Code, adding offenses, removing duplicative offenses and penalties, and proportionality.

Criminal Defense Attorney. Mr. Keith Rigg, a criminal defense attorney from Des Moines, made the following recommendations to the Subcommittee: reduce the punishment for a robbery in the second degree offense involving shoplifting and a simple assault; reduce the ratio quantities required for conviction for "crack" cocaine and powder cocaine; allow certain class "A" felons to be paroled; create a murder in the third degree offense, causation should be an element of the offense of homicide by vehicle involving a detectable amount of a controlled substance in the system of the operator; eliminate duplicative theft offenses in Code Chapter 714; prohibit separate collection of probation and jail fees outside the normal restitution plan; and permit probation to the judge or bench probation under certain circumstances.

County Attorneys Association. Ms. Jennifer Miller, Marshall County Attorney, made the following recommendations: redefine the term "reckless;" clarify felony murder involving willful injury; make each image of child pornography possessed a separate criminal offense; clarify enticing away a minor; amend Code Section 709.1 to include sexual abuse by deception; repeal cowl lamp statute; define "serious injury" consistently; include all drug penalties in Code Chapter 124; include all sex penalties in Code Chapter 709; develop consistent language in Code Chapters 321 (motor vehicle and road law) and 321J (operating while intoxicated); clarify that a person convicted of any offense involving enticing a minor away shall register as a sex offender; amend Code Chapter 711 (robbery and extortion) to include a nonforcible robbery crime; amend Code Section 123.46 to include intoxication by controlled substances or inhalants; eliminate the suspension of a sentence for a habitual offender; increase penalties for indecent exposure if the victim is a child; amend Code Section 709.9 (indecent exposure) to include a person who commits masturbation in the presence of another; and conform Iowa law with Federal law which prohibits possession of firearms by persons convicted of domestic abuse or who have a mental illness.

Attorney General's Office. Ms. Mary Tabor, Director of the Criminal Appeals Division, Attorney General's Office, stated the Subcommittee should focus on the following issues: case law that points to problems with particular Code sections; duplicative and overlapping offenses; using plain language; inconsistent references to criminal intent; proportionality; provisions that criminalize trivial or nondangerous conduct; critical terms that are undefined or defined inconsistently in the Code; updating parts of the Code with the Model Penal Code; the organizational structure of Code chapters; and the incorporation of case law definitions into the Code.

Iowa Trial Lawyers Association. Mr. U.J. Booth, representative of the Iowa Trial Lawyers Association, made the following proposals to the Subcommittee: remove robbery in the second degree from the definition of forcible felony; eliminate provisions requiring persons convicted of robbery in the second degree from serving 70 percent of the sentence; permit a person convicted of Code Section 321.218 (operating without a valid driver's license) to obtain a temporary

restricted driver's license if the person otherwise qualifies for such a license; make enhanced penalties for convictions under Code Section 124.414 (possession of drug paraphernalia) more consistent with possession of marijuana penalty enhancements under Code Section 124.401(5) and Code Section 124.411; increase threshold amounts for certain methamphetamine convictions under Code Section 124.401; and permit sentences to be suspended for certain methamphetamine convictions under Code Section 124.401E.

Eighth Judicial District Department of Correctional Services. Mr. Ron Mullen, Assistant Director, Eighth Judicial District Department of Correctional Services, suggested that probation and parole officers be granted the right to detain an offender without a warrant for a short time period in order to better control that offender. He also suggested increasing the criminal penalty for knowingly being absent from a community-based correctional facility under Code Section 719.4(3).

Subcommittee Discussion. The Subcommittee discussed the various proposals but did not take action on any proposal.

Next Meeting. To be announced.

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